

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Xavier L. McCoy,)	C/A No. 4:10-1687-JFA-TER
)	
Plaintiff,)	ORDER
vs.)	
)	
Mr. Lt. Meredith; Mr. Capt. Miller; and Ms.)	
Dr. Parker, Individually Capacities and in they)	
official capacities,)	
)	
Defendants.)	
_____)	

The *pro se* plaintiff, Xavier L. McCoy, brings this action pursuant to 42 U.S.C. § 1983. The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation wherein he suggests that the plaintiff's motion for default judgment against the defendants is meritless and should be denied. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation and without a hearing.

The plaintiff was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on November 1, 2010. The plaintiff filed a pleading on November 8, 2010 entitled "Objections to Defendant Dr. Parker's Answer."

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

It appears that the plaintiff's objections are merely a recitation of objections to the defendants' answer to the complaint, not the Report and Recommendation. Finding no merit to the objections, they are overruled.

As the Magistrate Judge points out in his Report, the court authorized service upon the defendants on July 30, 2010. The plaintiff filed his motion for default judgment on August 4, 2010, before the defendants were served. It appears from the record that all defendants have timely filed responsive pleadings to the complaint, thus, the plaintiff's motion is without merit.

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation proper and incorporated herein by reference. Accordingly, plaintiff's motion for default judgment is denied. The Clerk shall return this file to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.
United States District Judge

November 30, 2010
Columbia, South Carolina